

HOUSE BILL 2927  
By Chumney

AN ACT to amend and repeal various provisions of Tennessee Code Annotated, Title 36 and Title 37, relative to adoption.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 36-1-127(c), (d), (e), (f), (g) and (h), as amended by Chapter 532 of the Public Acts of 1995, are repealed and Tennessee Code Annotated, Section 36-1-141 (Chapter 285 of the Public Acts of 1985, as amended), is revived as appropriately designated subsections of Tennessee Code Annotated, Section 6-1-127, and shall apply to adoptions finalized between March 16, 1951 and July 1, 1996.

SECTION 2. Tennessee Code Annotated, Section 36-1-127(b), is amended by deleting all references to subsections (g) and (h) of this section.

SECTION 3. Notwithstanding any provisions of law to the contrary, in the case of all adoption records concerning the placement for adoption of any person, which records were created on or after July 1, 1996, the following provisions shall apply:

Section 1. The department of health shall be a depository for statistical data concerning adoption. It shall furnish to the clerk of each county a data card which shall be completed and filed with the clerk on behalf of each petitioner. The clerk shall forward the completed cards to the department of health which shall compile the data and publish reports summarizing the data. A birth certificate shall not be issued showing the petitioner as the parent of any child adopted in the state of Tennessee until a data card has been completed and filed.

Section 2.

(a) Petitions governed by this part shall be served in the same manner as a complaint in a civil action under the circuit court rules. Subsequent notice, papers, and pleadings may be served in the manner provided in superior court civil rules.

(b) If personal service on the parent or any alleged father, either within or without this state, cannot be given, notice shall be given:

(1) By registered mail, mailed at least twenty (20) days before the hearing to the person's last known address; and

(2) by publication at least once a week for three (3) consecutive weeks with the first publication date at least twenty-five (25) days before the hearing. Publication shall be in a legal newspaper in the city or town of the last known address within the United States and its territories of the parent or alleged father, whether within or without this state, or, if no address is known or the last known address is not within the United States and its territories, in the city or town where the proceeding has been commenced.

(c) Notice and appearance may be waived by the department, an agency, a parent, or an alleged father before the court or in a writing signed under penalty of perjury. The waiver shall contain the current address of the department, agency, parent, or alleged father. The face of the waiver for a hearing on termination of the parent-child relationship shall contain language explaining the meaning and consequences of the waiver and the meaning and consequences of termination of the parent-child relationship. A person or agency who has executed a waiver shall not be required to appear except in the case of an Indian child where consent to termination or adoption must be certified before a court of competent jurisdiction pursuant to 25 U.S.C. Sec. 1913(a).

(d) If a person entitled to notice is known to the petitioner to be unable to read or understand English, all notices, if practicable, shall be given in that person's native language or through an interpreter.

(e) Where notice to an Indian tribe is to be provided pursuant to this chapter and the department is not a party to the proceeding, notice shall be given to the tribe at least ten (10) business days prior to the hearing by registered mail return receipt requested.

### Section 3.

(a) All records of any proceeding under this part shall be sealed and shall not be thereafter open to inspection by any person except upon order of the court for good cause shown, or except by using procedures set out in this part.

(b) The state registrar of vital statistics may charge a reasonable fee for the review of any of its sealed records.

Section 4. Department, agency, and court files regarding an adoption shall be confidential except that reasonably available nonidentifying information may be disclosed upon the written request for the information from the adoptive parent, the adoptee, or the birth parent. If the adoption facilitator refuses to disclose nonidentifying information, the individual may petition the superior court. Identifying information may also be disclosed as provided in this part.

### Section 5.

(a) An adopted person over the age of twenty-one (21) years, or under twenty-one (21) with the permission of the adoptive parent, or a birth parent or member of the birth parent's family after the adoptee has reached the age of twenty-one (21) may petition the court to appoint a confidential intermediary. The intermediary shall search for and discreetly contact the birth parent or adopted person, or if they are not alive or cannot be located within one (1) year, the intermediary may attempt to locate members of the birth parent or adopted

person's family. These family members shall be limited to the natural grandparents of the adult adoptee, a brother or sister of a natural parent, or the child of a natural parent the court, for good cause shown, may allow a relative more distant in degree to petition for disclosure.

(b)

(1) Confidential intermediaries appointed under this section shall complete training provided by a licensed adoption service or another court-approved entity and file an oath of confidentiality and a certificate of completion of training with the superior court of every county in which they serve as intermediaries. The court may dismiss an intermediary if the intermediary engages in conduct which violates professional or ethical standards.

(2) The confidential intermediary shall sign a statement of confidentiality substantially as follows:

I, \_\_\_\_\_, signing under penalty of contempt of court, state:  
"As a condition of appointment as a confidential intermediary, I affirm that, when adoption records are opened to me:

I will not disclose to the petitioner, directly or indirectly, any identifying information in the records without further order from the court.

I will conduct a diligent search for the person being sought and make a discreet and confidential inquiry as to whether that person will consent to being put in contact with the petitioner, and I will report back to the court the results of my search and inquiry.

If the person sought consents to be put in contact with the petitioner, I will attempt to obtain a dated, written consent from the person, and attach the original of the consent to my report to the court. If

the person sought does not consent to the disclosure of his or her identity, I shall report the refusal of consent to the court.

I will not make any charge or accept any compensation for my services except as approved by the court, or as reimbursement from the petitioner for actual expenses incurred in conducting the search. These expenses will be listed in my report to the court.

I recognize that unauthorized release of confidential information may subject me to civil liability under state law, and subjects me to being found in contempt of court."

/s/... date ...

(3) The confidential intermediary shall be entitled to reimbursement from the petitioner for actual expenses in conducting the search. The court may authorize a reasonable fee in addition to these expenses.

(c) If the confidential intermediary is unable to locate the person being sought within one (1) year, the confidential intermediary shall make a recommendation to the court as to whether or not a further search is warranted, and the reasons for this recommendation.

(d) In the case of a petition filed on behalf of a natural parent or other blood relative of the adoptee, written consent of any living adoptive parent shall be obtained prior to contact with the adoptee if the adoptee:

(1) Is less than twenty-five (25) years of age and is residing with the adoptive parent; or

(2) Is less than twenty-five (25) years of age and is a dependent of the adoptive parent.

(e) If the confidential intermediary locates the person being sought, a discreet and confidential inquiry shall be made as to whether or not that person

will consent to having his or her present identity disclosed to the petitioner. The identity of the petitioner shall not be disclosed to the party being sought. If the party being sought consents to the disclosure of his or her identity, the confidential intermediary shall obtain the consent in writing and shall include the original of the consent in the report filed with the court. If the party being sought refuses disclosure of his or her identity, the confidential intermediary shall report the refusal to the court and shall refrain from further and subsequent inquiry without judicial approval.

(f)

(1) If the confidential intermediary obtains from the person being sought written consent for disclosure of his or her identity to the petitioner, the court may then order that the name and other identifying information of that person be released to the petitioner.

(2) If the person being sought is deceased, the court may order disclosure of the identity of the deceased to the petitioner.

(3) If the confidential intermediary is unable to contact the person being sought within one (1) year, the court may order that the search be continued for a specified time or be terminated.

#### Section 6.

(a) The department of human services, adoption agencies, and independent adoption facilitators shall release the name and location of the court where a relinquishment of parental rights or finalization of an adoption took place to an adult adoptee, a birth parent of an adult adoptee, an adoptive parent, a birth or adoptive grandparent of an adult adoptee, or an adult sibling of an adult adoptee, or the legal guardian of any of these.

(b) The department of health shall make available a noncertified copy of the original birth certificate of a child to the child's birth parents upon request.

(c) For adoptions finalized after July 1, 1996, the department of health shall make available a noncertified copy of the original birth certificate to the adoptee after the adoptee's eighteenth birthday unless the birth parent has filed an affidavit of nondisclosure.

#### Section 7.

(a) Every person, firm, society, association, corporation, or state agency receiving, securing a home for, or otherwise caring for a minor child shall transmit to the prospective adopting parent prior to placement and shall make available to all persons with whom a child has been placed by adoption a complete medical report containing all known and available information concerning the mental, physical, and sensory handicaps of the child.

(b) The report shall not reveal the identity of the birth parent of the child except as authorized under this part but shall include any known or available mental or physical health history of the birth parent that needs to be known by the adoptive parent to facilitate proper health care for the child or that will assist the adoptive parent in maximizing the developmental potential of the child.

(c) Where known or available, the information provided shall include:

(1) A review of the birth family's and the child's previous medical history, including the child's x-rays, examinations, hospitalizations, and immunizations. After July 1, 1996, medical histories shall be given on a standardized reporting form developed by the department;

(2) A physical exam of the child by a licensed physician with appropriate laboratory tests and x-rays;

(3) A referral to a specialist if indicated; and

(4) A written copy of the evaluation with recommendations to the adoptive family receiving the report.

(d) Entities and persons obligated to provide information under this section shall make reasonable efforts to locate records and information concerning the child's mental, physical, and sensory handicaps. The entities or persons providing the information have no duty, beyond providing the information, to explain or interpret the records or information regarding the child's present or future health.

#### Section 8.

(a) Every person, firm, society, association, corporation, or state agency receiving, securing a home for, or otherwise caring for a minor child shall transmit to the prospective adopting parent prior to placement and shall make available to all persons with whom a child has been placed by adoption, a family background and child and family social history report, which includes a chronological history of the circumstances surrounding the adoptive placement and any available psychiatric reports, psychological reports, court reports pertaining to dependency or custody, or school reports. Such reports or information shall not reveal the identity of the birth parents of the child but shall contain reasonably available nonidentifying information.

(b) Entities and persons obligated to provide information under this section shall make reasonable efforts to locate records and information concerning the child's family background and social history. The entities or persons providing the information have no duty, beyond providing the information, to explain or interpret the records or information regarding the child's mental or physical health.

Section 9. The department shall adopt rules, in consultation with affected parties, establishing minimum standards for making reasonable efforts to locate records and information relating to adoptions as required under this act.



SECTION 4. Tennessee Code Annotated, Section 36-1-128, 36-1-129, 36-1-130, 36-1-131, 36-1-132, 36-1-134 and 36-1-136, are repealed.

SECTION 5. Tennessee Code Annotated, Section 36-1-102, is amended by adding the following as an appropriately designated new subdivision:

( ) "Identifying information" means and shall be limited to the following, if reasonably ascertainable:

(A) Name of the child before placement in adoption;

(B) Name of each biological parent at the time of termination of parental rights;

(C) The most recent name and address of each biological parent; and

(D) Names of the biological siblings at the time of termination.

SECTION 6. Tennessee Code Annotated, Title 36, Chapter 1, Part 1, is amended by deleting any reference to the contact veto as repealed in this act.

SECTION 7. If any provision of this act shall be held to be unconstitutional, the provisions of Tennessee Code Annotated, Title 36, Chapter 1, Part 1, effective prior to enactment of Chapter 532 of the Public Acts of 1995, shall be revived.

SECTION 8. This act shall take effect upon becoming a law, the public welfare requiring it.